

# **PLANNING COMMISSION**

## **MINUTES**

**February 25, 2009**

**4:00 P.M.**

**CITY OF FREDERICKSBURG  
715 PRINCESS ANNE STREET  
COUNCIL CHAMBERS**

### **COMMISSION MEMBERS**

**Edward Whelan, III, Chair  
Roy McAfee, Vice-Chair  
Dr. Roy Gratz, Secretary  
Vic Ramoneda  
Ricardo Rigual  
Susan Spears**

### **CITY STAFF**

**Raymond P. Ocel, Jr., Director  
of Planning & Comm. Dev.**

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### **1. CALL TO ORDER**

The February 25, 2009 Planning Commission meeting was called to order at 4:00 p.m. by Chairman Ed Whelan who explained the standard meeting procedures.

### **2. PLEDGE OF ALLEGIANCE**

### **UNFINISHED BUSINESS/ACTION ITEMS**

- 3. SUP2009-02: Timbernest, Ltd. - Special Use Permit request to convert and utilize the 13 apartment units contained in the three buildings addressed as 506-512, 514 and 516 Sophia Street to 22 inn/hotel units. The property is zoned CD, Commercial Downtown which permits hotels with a special use permit. The property is designated as Downtown on the Future Land Use Map contained within the 2007 Comprehensive Plan.**

Mr. Ocel said that at the February 11, 2009, public hearing, the Commission did not hear any comments from the public and that the Commission members did not have further questions for the applicant beyond what was provided in the application and supplemental materials.

Mr. Ocel said that staff recommends approval of the special use permit with the following conditions:

1. That the location of the footprint of the buildings be in accordance with the plan prepared by Commonwealth Architects, dated August 21, 2008.
2. That the three existing buildings contain a maximum of 22 rooms.
3. The right to construct and occupy the hotel shall be contingent upon the continued availability of the off-site parking. Off-site parking to include the use of at least 10 parking spaces on the adjacent 525 Caroline Street property. The loss of some or all of the off-

site parking shall result in the loss of the right to occupy a prorated portion (or all) of the hotel building.

4. The applicant or owner shall notify the Zoning administrator in the case of the loss of some or all of the off-site parking.
5. That the proposed use shall commence business within one year of the date of adoption of the City Council Resolution.
6. That the proposed use of the property is permitted only so long as it continues and is not discontinued for more than two years.

Ms. Spears made a motion to recommend approval of SUP2009-02 – Timbernest, LTD, with the conditions outlined by staff.

Mr. Ramoneda seconded the motion. Motion carried by a vote of 6 – 0.

4. **RZ2009-01: Eagle Village I, LLC**– The applicant requests to rezone property totaling approximately 7.126 acres of land which is identified as Tax Map 249, a portion of Parcel 21257 from CSC, Commercial Shopping Center to PD-MU Planned Development Mixed Use in order to construct 156 student housing units containing 624 beds; a 552 space parking garage and 68,000 square feet of retail and office space. The property is more commonly identified as the Park and Shop shopping center located on the west side of Jefferson Davis Highway. The property to be rezoned identified as Phase I currently contains the Rose's and Einstein Bagel stores. The property is designated as General Commercial on the Land Use Map contained within the 2007 Comprehensive Plan.

Mr. Ocel informed Commissioners that City Council adopted the Mixed-Use Ordinance at its February 24, meeting. He distributed the revised proffers for the project. He said the applicant has provided additional information to address questions and issues raised by Commissioners and staff during the February 11, 2009 public hearing.

#### Utilities – Water and Sewer

The applicant has revised proffer #3 and #4 to address upgrading water and sanitary sewer services to the property. The Public Works Director has reviewed the language and specifics of the proffers and finds that they address the requirements to upgrade the two utility services.

3. For utility improvements relating to his project, the Applicant proffers the following:

- (a) The Applicant will pay a cash proffer to the City for a water main upgrade, and will install a new twelve inch water main (the "New Water Main") and extend it to the Phase I Property, as follows:
  - (i) The City plans to extend an eight inch water main from Cowan Boulevard in a northerly direction, along the west side of Jefferson Davis Highway, to a point in Stafford Avenue (the "City Installed Main"). The Applicant will pay to the City, a cash proffer, the cost differential necessary for the City to upgrade the City Installed Main from eight inches to twelve inches.
  - (ii) The Applicant, at its cost, will install the New Water Main, connecting it to the City Installed Main, and will extend the New Water Main in a northeasterly direction along Powhatan Street to Jefferson Davis Highway, then extending in a northerly direction along Jefferson Davis Highway to the Phase I Property as generally shown on Exhibit 3 to the Applicant's re-zoning application.
  - (iii) At the option of the City, should the City determine to upgrade the City Installed Main and the New Water Main to sixteen inches, and/or should the City determine to route the City Installed Main directly along Jefferson Davis Highway to the north of Stafford Avenue, instead of to a point in Stafford Avenue, such that the New Water Main will tie in to the City Installed Water Main on Jefferson

Davis Highway and then extend along Jefferson Davis Highway to the Phase I Property, the Applicant will upgrade the New Water Main to sixteen inches and extend it along Jefferson Davis Highway to the Phase I Property; provided however, that the total cost to do so does not exceed the total cost (based on the Applicant's accepted bid for such work) (the "Bid Cost") of the work referenced in sub sections (i) and (ii) above. The New Water Main shall be installed and operational as a condition precedent to the issuance by the City of an occupancy permit for any improvements on Phase I of Eagle Village.

4. The Applicant will contract for and execute, or at the option of the Applicant, pay the cost to a contractor hired by the City to execute, an upgrade to sixteen inches of the existing twelve inch sewer line in the block of Kenmore Avenue between Mortimer Avenue and Cornell Street. The upgraded sewer line shall be installed and operational as a condition precedent to the issuance by the City of an occupancy permit for any improvements on Phase I of Eagle Village.

#### Traffic Analysis

The applicant provided additional information regarding the Collage Avenue/Jefferson Davis Hwy. intersection and staff has reviewed the information with the Public Works Director and the City Attorney and are satisfied at this point that the analysis is correct and that the proffer, regarding that intersection, to do some improvements to the existing traffic signal system would be appropriate. Therefore, Proffer #5, which is a cash proffer to the City, makes the changes to the traffic signal there and should be adequate. We do note, though, that we are signing off on or agreeing to the information that is in the Traffic Analysis for Phase I. And, he said, as I explained before the analysis also takes into consideration redevelopment of Phase II. But once the Phase II rezoning application is submitted and we are better able to tie down the uses that are proposed, there will probably be modifications that need to be made to the Traffic Analysis. Mr. Ocel said he has discussed this with Mr. Nuckols, legal council for the applicant.

The Traffic Impact Analysis suggests possibly making some changes to the way traffic flows at the intersections of Cowan Boulevard/Jefferson Davis Hwy; Jefferson Davis Hwy./Fall Hill Avenue; Jefferson Davis Hwy/Mary Washington Boulevard; and Jefferson Davis/Hanson Avenue by either lane assignments or in some cases where you have a protected left-turn (light with arrow) from Jeff Davis to a side street, there are some suggestions changing to a "permitted" left (green light with no arrow) so you only make that left turn should there be no traffic coming the other direction. The public works department did not agree with some of the suggested changes at those intersections. However, Mr. Ocel said, we don't believe that not making those changes are going to negatively affect particularly the College Avenue/Jeff Davis Hwy intersection so we are comfortable at this point moving forward even knowing that some of those changes would be made at those other intersections. We do not feel that if they are not made that there is going to be more traffic at the main College Avenue/Jeff Davis Hwy intersection that would cause any other further improvements there. We are satisfied with the analysis that we have at this time and the proffers to address those improvements at the intersection with the traffic signal.

#### Cross Section of Student Housing Building

The application provided the information requested by the Commission regarding the height variations in the area of the proposed student housing, which was depicted in attachment 3 of the staff report. The right side of the graphic shows where the view is being taken (as if standing on Jefferson Davis Highway) and the left side of the graphic shows the relationship of the proposed student housing to the adjacent apartment complex. The graphic shows the top elevation of the apartments to be just below 145 while the apex of the student housing building is shown at the 200 level. The existing tree buffer between the two properties that is located on the apartment property. The buffer contains a mixture of deciduous and evergreen trees.

Mr. Rigual confirmed that Mr. Ocel said the Traffic Analysis would be updated after Phase I is completed.

Mr. Ocel said yes. The Traffic Analysis was done for Phase I, but staff also asked them to include Phase II, which is the rest of the center to give us a ballpark of what we may see down the road. Once Phase II is submitted we will look at the Traffic Analysis to see what types of changes and considerations need to be made.

Mr. McAfee said he had some questions for the applicants attorney.

Mr. Gary Nuckols, Council for the applicant, 725 Jackson Street, represented the applicants.

Mr. McAfee said one of his concerns is the viewshed and as Mr. Ocel pointed out the applicants have provided a rudimentary drawing showing elevation. However, he said, the drawing falls short of addressing the idea of what you can see from different areas of the City and what this thing is going to look like and asked if this newly submitted drawing was the end of the applicants answer or just a piece of it.

Mr. Nuckols said he could not answer that question precisely because they have not made a decision as to whether they will go any further on this issue at this time. He said he could not say yes or no, at this time.

Mr. McAfee said there appears to be conflicting information in the applicants' correspondence. One section said that the applicants are not considering closing the median and in the rest of the documentation it recommends closing the median.

Mr. Nuckols asked if Mr. McAfee is referring to the median with the left turn off of Rt. 1, going northbound into Augustine Avenue/Snowden?

Mr. McAfee said if you are northbound on Rt. 1 and you turn left you are going toward the Park and Shop and that is the one I am concerned with.

Mr. Nuckols said there is no thought of closing that median and that is something that we would only propose at Phase II if the City requested we propose it. But, no, no proposal is there now.

Mr. McAfee asked Mr. Nuckols what median the supporting documentation is referring to, that suggests a closure.

Mr. Ocel clarified that when the Preliminary Planning meeting was conducted prior to the Analysis being done staff asked them to take a look at the effects of closing that median for safety purposes and that is what Mr. McAfee sees in the Traffic Impact Analysis; that it can be closed. There is not a requirement for it to be closed in the first phase so the applicant is not proposing to do that, staff is not proposing that to be done at this either. This is something we will look at more closely during Phase II to see if it is required either for safety reasons or the need to extend the northbound left turn lane into the property at the main entrance. There may be a possibility that this lane needs to be extended further south which would then necessitate doing some changes to the intersection of Jefferson Davis and Snowden but we cannot be exactly sure that this needs to be done at this point.

Mr. Nuckols explained the various scenarios that had been discussed to further clarify.

Mr. McAfee said he wanted to make very clear that neither the applicant nor City staff are recommending to close that median at this point.

Mr. Ocel and Mr. Nuckols both answered that Mr. McAfee is correct.

Mr. McAfee said one other concern that he had previously mentioned was with the northbound turn off of College Avenue and the beginning of a dialogue about this. He said Mr. Nuckols' letter is fairly clear in that *someone* does not believe it is appropriate to move forward until all of the data has been reviewed. He said he can appreciate that we do not want to go off half-cocked but on the other hand if one always waits to have all our ducks in a row to begin a discussion we would never get anywhere. He said he appreciated Mr. Nuckols making an attempt to answer his concern about the turn off but is not completely satisfied with the answer.

Mr. McAfee said this is a great project and will be an asset for the City and certainly comes to us at a time when we need some forward movement in the City. He said he is an advocate for mixed use and is pleased to see a project come on line within one day after passage of the mixed use legislation. However, he said, he has some overall concerns about the process. He said his concerns are that the city has gotten into trouble for short changing the process before -- notably a few years ago with Central Park. He said he sees a situation where we have crafted, with the developments assistance and other people's assistance, an ordinance that enables a project and then a move to quickly approve this project. He said he wants to point out as a Commissioner that they received the bulk of information on this project on Saturday and on Wednesday, we were supposed to render some initial discussions and about it. He said this is a barely enough time to digest just the traffic impact study that was provided and he believes that in the future as we move forward that some consideration needs to be given to the amount of time it takes to have a dialogue about the information received, to digest the information and to interact as we should be with the rest of the public about this subject. He said he does not believe it does anyone any good when we attempt to move forward too quickly. He said he was able to raise some question by Wednesday and believes the answers he has received require more dialogue so he is not comfortable that he has received complete answers. He said the applicants have not had enough opportunity to completely answer his questions.

He said that UMW is a very important part of this City and it is going to continue to be an important part of the City. As it grows and as the City grows he said it behooves both to have open dialogue, transparency and good, open communication. He said that he does not believe there is any ill will or bad intent but believes we are seeing a lack of excellent communication. And, he said, the fact that as a Planning Commission we have not been made privy to whatever the UMW's overall general plan of development is creates an atmosphere of suspicion. He said that as the City moves forward with our processes on the Planning Commission and as we hope to move forward with the University in the future, he hopes that we can leave the ghost of inadequate communication that we have had in the past with Mary Washington College behind with that name and as we go forward with the University of Mary Washington he said he hopes they can have transparency, communication and cooperation.

Mr. Ramoneda said he echoes some of Mr. McAfee's thoughts and believes this is an excellent project coming through and is excited for the City and the University. He said this is an excellent first use of the newly adopted Mixed Use Ordinance. However, he said, he shares some concern that it's been crafted and coming through in parallel and feels like as Planning Commissioners that perhaps they did not have enough input in the crafting stage of the Ordinance. He said it seemed to hit the Commission a little bit more suddenly than he would have like to have seen. However, he said he still has great confidence in the project and ascribes no ill will to this and realizes that they are working backward from a time line. And he said he believes the real driving factor is the University is trying to get the dorms early and on time for the new student's arrival this summer. He said he will have concerns with Phase II and would like to be permitted more time to digest that phase during the planning stages.

Dr. Gratz noted that he had filled out a form that indicates that he has a bit of an interest in the project in that he is a faculty member at the University of Mary Washington, which is not the same as the Foundation that is supporting and promoting this project. He said he believes he can vote on this item fairly and objectively in the public interest because his position at the University has nothing to do with the Foundation directly. **Declaration of Interest by Virtue of Membership in**

**a Business, Profession, Occupation or Group Affected by a Transaction has been signed by Dr. Gratz and notarized by Debra M. Ward and is attached to these minutes.**

There were no further comments on this item.

Mr. Ramoneda made a motion to recommend approval of the rezoning to include the newly submitted proffers, amended February 19, 2009.

Ms. Spears seconded the motion.

Motion carried unanimously.

5. **Zoning Ordinance Text Amendment**-Amending City Code Chapter 78, Zoning, Planning and Development, Article III, Zoning, Division 4, Parking and Loading and Private Streets in order to implement a fee in lieu of parking program; eliminating the requirement of up to 5 parking spaces for a new business or expansion of an existing business or change of use; provide credit for on-street parking directly abutting a property and decreasing the amount of parking required for uses in the downtown area. These amendments are applicable only to an area in the downtown bounded by Amelia Street to the north; Prince Edward Street to the west; Lafayette Boulevard to the south and Sophia Street to the east.

Mr. Ocel provided an update on the proposed text amendment. Based upon recent discussions on an amendment to the parking requirements applicable to the downtown area, the following changes have been made to the draft ordinance.

1. Under Sec. 78-119, the first proposed reduction has been removed as discussed. This would have reduced the required parking by one-half for the uses listed in subsection (a) which directly preceded this sub-section.
2. Sec. 78-119 (3) has been reworded to reflect the discussion on counting on-street parking.
3. The fee-in-lieu name has been changed to parking fund and the process to participate in the fund has been added to Sec. 78-120 that requires the issuance of a special exception.

It is the staff's recommendation that the Planning Commission take action on this amendment and forward it to the City Council. A work session is anticipated to be held prior to the City Council holding its public hearing.

Dr. Gratz noted that the ordinance submitted with the staff report continued to use the old name "fee-in-lieu" and should be changed to reflect the new name "parking fund."

Mr. Ocel thanked Dr. Gratz for pointing this out and said he would make the correction prior to moving forward to City Council.

Mr. McAfee noted that when funds were discussed before that they had mentioned that one potential good use for those funds would be toward parking or alternatives that alleviated parking, such as mass transit and possibly some street furniture such as a bike rack for an example. Under 78-121(e) he said Mr. Ocel lists "Engage in other similar related projects." Mr. McAfee said this appears to be too open ended and thought it should possibly read *Engage in other similar related projects to include but not be limited to mass transit projects or alternative modes of transportation.* Or some other type of similar wording

Mr. Ocel said he believes Mr. McAfee is saying is being able to be flexible and use it for things that would actually, in some cases, reduce the need for other vehicular parking places.

Mr. Ramoneda suggested perhaps the word "goals" or "parking goals" could be added or something along that line order to keep it focused on the end point.

Dr. Gratz said the idea of the parking fund is that it should only be used toward capital projects such as those listed a – d. He said there will not be a huge amount of money in the pot and it would go away very quickly if you start using it to subsidize the bus service or something similar. He said he believes the intent is to use it for parking and that there are other ways to subsidize the bus service, which we do already. He suggested perhaps adding the word "parking" in 78-121(e) to read "e. Engage in other similar related parking projects."

Mr. Ocel said he believes that this is what Mr. Ramoneda was saying when he said "parking goals".

Mr. Ramoneda asked if we even need "e." at all. He asked if everyone agrees that there is enough covered in a – d, that e is even that necessary.

Mr. Whelan agreed that it needs to be limited in order to achieve the other goals.

Mr. McAfee said he was comfortable with striking "e" completely.

Commissioners agreed to strike "e"

Mr. Ramoneda said although this is an ad hoc approach, we definitely need to do something but we also need to keep in mind that the horse is already out of the barn, as it were, with parking with the tourism zone. So, he said, once we've gone down that road and further go down this road, is that he would like those involved in the final decision to understand that the City is now taking the responsibility for parking in the future, for good or ill, that the responsibility in its sort of fractured form right now sort of belongs in the individual property owner. He said he was not saying that is good or bad but we need to be aware of the consequences of that. And, in order to further understand what impact that has moving forward is that whether staff or someone outside staff does that we really need to understand the level of parking that the downtown will need when we see fewer parking lots and we see buildings being put to their best use so we have some understanding of the parking that we do need and some recognition of it so we have a real goal as far as what we need and to sort of get away from the ad hoc approach and at that point we would actually be planning.

Mr. Whelan noted that they had discussions in the past about having a study done.

Mr. Ocel said this was correct but at this time there are no funds for a demand study by an outside source but staff could take it on with the understanding that it would be a major undertaking.

Mr. McAfee asked if it would be appropriate to include notes to the City Council that the Commission feels that as this progresses and as the City begins to grow and change that we do need to keep this idea of planning and control on the situation through some type of demand study and that the Commission recommends that they begin to budget for that.

Mr. Whelan said the above comment needs to be in the minutes and asked if Mr. McAfee wanted this comment as part of a motion.

Mr. McAfee asked if it has to be part of the motion.

Mr. Ocel said the comments will be noted in the minutes and it does not have to be part of the motion and it will be in his memo when it moves on to Council.

Mr. McAfee made a motion to recommend approval of the proposed ordinance with the amendments made earlier – changing the wording of Fee-in-Lieu and striking Section 78-121 e.

Dr. Gratz seconded the motion.

Motion carried by a unanimous vote of 6 – 0.

### **OTHER BUSINESS**

The February 11, 2009 Planning Commission Minutes were approved as submitted.

### **Planning Commission Comments.**

Mr. McAfee said in a meeting with Ms. Greenlaw, Mr. Solley and Mr. Whelan, they had talked about creating their own increased transparency in the process by posting the applications received by the planning department to be posted on line. He asked Mr. Ocel if there had been any progress made on this.

Mr. Ocel said not at this point. He said it's a matter of time and resources to be able to do this.

Mr. McAfee asked if when the applications come in Commissioners receive a copy of an often handwritten by the applicant. He asked if the Planning Department has some sort of electronic record that the application has been made.

Mr. Ocel said that it depends on what the application is, Robin tracks all those that come before the Planning Commission and eventually on to council. He said Robin has a log.

Mr. McAfee asked if it would be appropriate to make the log available on line.

Mr. Ocel said we could look into doing this.

Dr. Gratz asked if it would be appropriate to provide the staff report on line. He said he is aware that it would not be possible to provide all the detailed mapping and documentation that comes along with it but that the staff report basically hits on all the points that the application is attempting to accomplish.

Mr. Ocel said it is a possibility and we could look into doing this.

Mr. McAfee said he is interested in having something on line that what is before the Commission as well as what is before the Planning Department and this is what Councilors Solley, Greenlaw and we discussed. He said he would not be opposed to going a step further and putting the Staff recommendations on line but believes that is another step that should be talked about a little bit.

Mr. McAfee said he not only wants those applications that come to the Planning Office that are advertised but he wants ALL applications, to include administratively approved applications, to be available to public view and that the public would then have a chance to comment or ask questions on those projects.

Mr. Ramoneda suggested perhaps posting the public notice on the web, which shows all applications coming before the Commission.

### **Planning Director Comments**



Mr. Ocel; provided and update of recent City Council Action at its meeting held on February 24, 2009.

Mr. Ocel noted upcoming applications coming to the Planning Commission.

Mr. Ocel distributed recent finalized text amendments to be kept with the Commissioner's zoning ordinances.

Meeting Adjourned



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Edward F. Whelan, III, Chair

**DECLARATION OF INTEREST BY VIRTUE OF  
MEMBERSHIP IN A  
BUSINESS, PROFESSION, OCCUPATION OR GROUP  
AFFECTED BY A TRANSACTION**

**Under Virginia Code section 2.2-3112(A)(2)**

This is a declaration of interest as required by Virginia Code section 2.2-3112(A)(2). When a member of a local planning commission is a member of a business, profession, occupation or group of three or more persons, the members of which are affected by a matter that comes before the planning commission for official action, then the member may participate in the discussion and vote only if he or she is able to participate in the matter fairly, objectively, and in the public interest.

I, ROY F. GRAY, declare my interest in the matter of RZ 2009-01,

which has come before the Fredericksburg Planning Commission for official action. I am a member of the group of UNIVERSITY OF MARY WASHINGTON, which will be affected by the matter. *I declare that I am able to participate in the discussion, debate, and vote on this matter fairly, objectively, and in the public interest.*

Per Virginia Code section 2.2-3115(G), I ask that this declaration be filed with the Clerk of the Commission to be retained and made available for public inspection for a period of five years from the date of receipt.

Note that Virginia Code section 2.2-3115(G) also requires the member of the Planning Commission to orally disclose the existence of the interest during each meeting of the Planning Commission at which the matter is discussed, and that the oral disclosure shall be recorded in the minutes of the meeting.

Date:

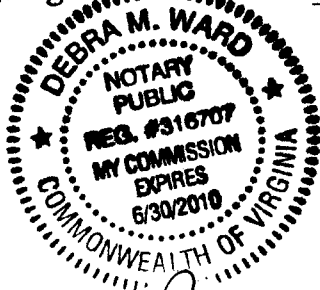
2/25/09

R F Gatz

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Fredericksburg, to wit:

I, Notary Public in and for the jurisdiction aforesaid hereby acknowledge that Ray F. Gatz, member of the Fredericksburg City Council, signed the foregoing Declaration on this 25<sup>th</sup> day of February, 2009.



Debra M. Ward  
Notary Public  
Notary I. D. # 316707

My commission expires:

June 30, 2010